

REMARKS

Applicants would like to thank the examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe and claim the subject matter which applicants regard as the invention.

The examiner objected to the specification for an improperly spelled word. The spelling has been corrected in the supplied amended paragraph, thus making the objection moot.

The number '13' was added as a call-out to Fig. 1 because it was inadvertently omitted. Also, the draftsman objects to the figure for containing copy marks. A corrected drawing has been submitted for the examiner's approval.

Claims 4-10 and 12 were objected to for having improper multiple dependencies. Claims 4-10 and 12 were canceled and new claims added without improper multiple dependencies, making the objection moot.

Claim 3 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner objected to the language "behind the tympanic membrane." New claim 16 has the same phrase, but it is not indefinite because it depends on claim 13, which makes clear that the coil is adapted for placing in the *middle* ear. Accordingly, one skilled in the art would understand the meaning of "behind the tympanic membrane" knowing that such placement would be on the middle ear side of the membrane.

Claims 1 and 11 were rejected under 35 U.S.C. §101 for reciting elements of the human body. Claims 1 and 11 have been canceled. New claims 13 and 28 utilize "adapted for" language, and thus should be acceptable to the Examiner. Claim 11 was further rejected under 35 U.S.C. §101 because the Examiner could not understand how a magnet could "activate" the coil. Again, claim 11 has been canceled, and new claim 28 does not use the offending term "activate".

Claims 1 and 2 were rejected under 35 U.S.C. §102(b) as being anticipated by Hough (U.S. Pat. No. 4,606,329). For the following reasons, the rejection is

respectfully traversed.

Claims 1 and 2 have been canceled. New claim 13 recites "at least one coil adapted for placing in the area of the middle ear" (at line 4). New claim 28 recites a similar limitation at lines 4-5. Hough does not teach this element of claims 13 and 28.

Instead, Hough teaches an "electromagnet signal transmitting means 36" that is adapted to be implanted in the temporal bone ⁵outside the middle ear (col. 6, lines 10-12; see also FIGs. 3, 7 & 8). Consequently, Hough does not suggest the cited limitation of claims 13 and 28, and thus those claims are patentable over Hough. The remaining claims are, directly or indirectly, dependent on one of claims 13 and 28, and are thus patentable over Hough for the same reasons.

In consideration of the foregoing analysis, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 33891.

Respectfully submitted,

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November 12, 2002

Specification Amendments with Editing Marks

Page 4, last paragraph:

The invention now proposes to place a permanent magnet 15 on the promontory while positioning the coil 17 either on the tympanic membrane proper or for instance on the malleus 3 next to the ear drum. The fact that the dimensions of the permanent magnet 15 can be made larger by a fair amount than those of the permanent magnet described in US 6.084.975, correspondingly allows for a significantly small coil 17 to be employed, which offers important advantages. For one, substantially smaller currents in the coil suffice to produce the necessary movement. For another, significantly less heat is generated. Placing the coil in the ~~rea~~ area of the ear drum also permits more efficient heat dissipation through the external auditory meatus to the outside, which would be more difficult to obtain if a coil 17 were located on the promontory 13.